

June 3, 1982

Mr. Alexander Slinsky
U.S. Environmental Protection Agency
Region III
Curtis Building
6th & Walnut Streets
Philadelphia, PA 19106

Re: JRB Project No. 2-834-03-587-43

Dear Mr. Slinsky:

Please find enclosed, JRB's review comments with regard to the M-O-T Pretreatment Program.

In general it appears that New Castle County has a good basis for a program and that the participants are conscientious in holding up their end of the responsibilities. There are, however, some areas which will require further effort on the part of the County and the respective towns involved in the program.

Some revisions will be required to local ordinances and agreements and some technical work in the area of discharge limits will have to be documented. I have outlined some specific recommendations in the comments attached. It is evident from the summary in the beginning of the package we reviewed that the County is aware of some of these deficiencies and is moving to correct them.

The program submission would also greatly benefit from a higher degree of organization. I have included a sample table of contents from a POTW in Region III as a guide for M-O-T.

Please advise the County/M-O-T that we would be glad to discuss these comments by telephone and offer any further guidance or assistance you feel necessary. If you have any questions, please contact me at (703) 821-4877.

Sincerely,



John J. Smith
Senior Environmental Engineer

JJS/mh

Enclosure

JRB COMMENTS ON THE
MIDDLETOWN-ODESSA-TOWNSEND PRETREATMENT PROGRAM

Legal Authority

A draft document entitled "Pretreatment Statement for M-O-T Regional Wastewater Treatment Facility" was included in the review package. It indicated that the County Attorney will submit this document under his signature as a statement of legal authority. This document references the New Castle County Code Chapter 16, Article VIII, "Regulation of Non-Domestic Wastewater Discharges," as the source of legal authority for pretreatment program implementation.

The referenced attorney's statement and County Regulations are deficient in the following areas:

1. The POTW must be able to require compliance with National Categorical Pretreatment Standards. Since National Categorical Standards have not been fully promulgated, authority is adequate if the ordinance states that these Standards shall apply to industrial users once they are promulgated or if such standards may be imposed as a permit or contract condition.
2. The POTW must have the authority to publish notification in local newspapers of noncompliance and enforcement actions.
3. Since the County is the official POTW authority and does accept waste from an incorporated municipality (Middletown) there is the potential for interjurisdictional complications in the administration and possibly enforcement of a pretreatment program for M-O-T. The agreement dated 8/2/76 between the two entities is insufficient to alleviate the potential problems, however, the County states in their letter of 1/14/82 that a new agreement is being drafted and will address inter-jurisdictional issues.

As a guide to the County and Middletown in the development of such an agreement we have enclosed a sample document which addresses interjurisdictional issues and suggest that particular attention be paid to ensuring that the agreement:

- Extends Pretreatment Standards, including specific limits to the independent jurisdictions
- Provides the County with the authority to review independent pretreatment programs for conformance to Pretreatment Regulations

- Provides the County with the right to inspect and sample on jurisdictional and industrial premises
- Requires the transference of important pretreatment records from the independent jurisdiction to the County
- Provides the authority for immediate termination of any industrial sewer service under emergency conditions
- Provides realistic enforceable remedies against an independent jurisdiction which fails to meet its pretreatment obligations.

Please note Section 3, in particular of the enclosed agreement.

Local Discharge Limits

Both the County and Middletown include specific industrial user discharge limits in their ordinances. There is no discussion of the development of these limits or citation of reference from which they might have been derived.

Local pollutant discharge limitations should at least include the national prohibited discharges (concerning wastes that are explosive, damaging to the system, corrosive, excessively high temperatures, etc.) and incorporate by reference the national categorical standards. Additional limitations should be developed when needed to prevent operational problems, to avoid NPDES permit violations, and to implement State solid waste disposal plans. When the POTW has the potential for contributing to State Water Quality Standards Violations, the POTW should consult with the approval authority (State or EPA Region) in developing limitations to protect receiving water quality.

Procedures used or proposed to be used to develop such local limits should have scientific basis and should address all industrial pollutants of concern identified in the Industrial Waste Survey. Local limits are evaluated for their appropriateness, adequacy, and consistency with applicable National and/or State pretreatment standards. In no case, can local limits be less stringent than all applicable National and/or State pretreatment standards.

The local limits should be applied equitably among the industrial discharging the regulated pollutants. Ideally, these limits should be technically and economically achievable by the industries to whom they are applied. However, the criteria for "economic" and "technical" feasibility must be consistent

with applicable Federal, State, and local laws. As a general rule, limitations on specific pollutants should not be made lower than the detection limits of currently available standard laboratory analytical techniques.

The POTW should make available to industrial users and other interested parties the procedures used to develop limits, data supporting the limits, and the rationale for the selected limits. Interested parties should be given the opportunity to review and comment on the development of local limits. The program submission should describe the POTW's overall approach for developing current, proposed, or future discharge limitations.

Resource Analysis

It appears as though the proper personnel, organization and funding are available for the M-O-T program. However, the package in its present form presents a somewhat disjointed picture.

The submittal should include a brief description of the POTW organization that will administer the program, including organization charts. If more than one agency is responsible for performing certain aspects of the program, these agencies must be identified, as well as their pretreatment program responsibilities and the procedures for coordinating the interagency work. The submittal should describe the level of full- and part-time manpower available to implement the program.

The adequacy of a program in regard to organization and staffing is not only based on whether essential functions are covered but also on whether the organization and staff will be able to implement the requirements of the program. In determining adequacy, the following elements should be evident in the submission:

- Clear and appropriate lines of authority
- Identification of staff responsibilities
- Qualifications of staff
- Staffing levels related to required work effort
- A mechanism for interrelationships with other departments
- Contract management (if required).

Text accompanying the organization chart should identify the pretreatment program responsibilities of each of the staff members involved in the program. Identifying the staff positions responsible for specific kinds of work is especially important.

The submission should include job descriptions and the associated qualifications for all key staff positions. These include: management, directors, engineers, field crews, chemists, and laboratory technicians. These requirements should describe the minimum levels of training, certification, and experience pertinent to the job wherever key positions have been identified that are not filled by existing personnel. Where existing personnel are used (especially in cases where the POTW has already been operating a pretreatment program) the training, certification, and years of experience of persons in key positions should be identified.

Program Submission

The M-O-T pretreatment program submission should stand alone as a complete document. A sample table of contents from another program submission is attached. This is included as an example of a program submission's structure not an absolute requirement.

DRAFT PRETREATMENT AGREEMENT

The City and District hereby agree to cooperate in the effort to attain full compliance with the requirements of the federal Pretreatment Regulations and to establish a Pretreatment Program designed to facilitate the safe and efficient handling of industrial waste discharges in the District.

Using the Industrial Waste Survey and other pertinent information, the City shall identify industrial users which may be subject to the POTW Pretreatment Program. Using the Industrial Waste Survey, information from permit applications, the results of preliminary inspection, surveillance and monitoring and any other pertinent information, the City shall determine the character and volume of pollutants contributed to the POTW by the industrial users in the District. The City shall notify industrial users in the District of applicable Pretreatment Standards and applicable requirements under sections 204(b) and 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act.

Any compilation, index or inventory of industrial users subject to Pretreatment Standards or Requirements, or of the character or volume of pollutants contributed to the POTW by these industrial users will be made available upon request to the Approval Authority and to the District.

The District shall consult and cooperate with the City in the effort to identify industrial users and determine the character and volume of pollutants contributed to the POTW by these industrial users.

For the purposes of this Agreement, Approval Authority means the EPA Regional Administrator for Region VIII.

After analyzing information provided by the Industrial Waste Survey, industrial user permit applications and the results of any industrial self-monitoring or compliance monitoring, the City shall make a formal recommendation regarding the status of each industrial user permit application. The recommendation should include an enumeration of all permit conditions, including conditions relating to the installment of monitoring or pretreatment facilities, necessary to enable compliance by the industrial user with Pretreatment Standards and Requirements. The City shall also make formal recommendations regarding the status of any industrial user permit being considered for modification, renewal (after expiration) or revocation. In all cases, the final determination regarding the status of an industrial user's permit will be made by the District.

The City shall receive and analyze all industrial user self-monitoring reports, including, but not limited to, reports required by 40 CFR §403.12 of the Federal Pretreatment Regulations. The City shall conduct random and investigative compliance monitoring, including inspection, surveillance and monitoring, of industrial users in the District to detect any

noncompliance with Pretreatment Standards and Requirements. The District agrees to make all necessary legal and administrative arrangements for these compliance monitoring procedures. The City agrees to make available, upon request, to the Approval Authority and to the District copies of all industrial self-monitoring and City compliance monitoring reports.

Where enforcement action becomes necessary, the City shall refer the case along with documentation of the Pretreatment violation to the proper enforcement authority in the District. At the same time, the City shall make a formal recommendation regarding the technical and legal disposition of the alleged Pretreatment violation. Where administrative hearings are held, the City shall provide its factual findings and formal recommendation regarding the technical and legal disposition of the case. Generally, the City shall provide technical assistance to any enforcement action against the industrial user undertaken by the District.

The City shall bill the District on a quarterly basis for the pretreatment costs incurred by the City in conjunction with the administration of a Pretreatment Program in the District. Also the City shall assist the District upon request in establishing an equitable user fee system to defray the costs of operating a Pretreatment Program for the District.

The City agrees to comply with the public participation requirements of 40 CFR Part 25 and requirements contained in 40 CFR §403.8(f)(2)(vii), providing for notice to the public of significant Pretreatment violations.

The terms of this Pretreatment Agreement shall not in any way impair the City's right to seek contractual remedies contained in the Service Agreement.

This Pretreatment Agreement shall remain in effect for a period of five (5) years. The Pretreatment Agreement shall be automatically renewed for an additional five-year period unless either party provides at least six (6) months prior notice of its intention to terminate this Pretreatment Agreement.

SEWAGE TREATMENT AGREEMENT
BETWEEN
CITY OF RAPID CITY, DISTRICT
AND
RAPID VALLEY SANITARY DISTRICT

This Agreement made as of this _____ day of _____, 1980, by and between the City of Rapid City, a municipal corporation organized under the laws of the State of South Dakota, hereinafter referred to as "City", and the Rapid Valley Sanitary District, a Sanitary District organized under the laws of the State of South Dakota, hereinafter referred to as "District".

PRECEDENTS

1. The City has constructed and operates a sewage disposal system for the purpose of collection, treatment and disposal of sewage;
2. The District has undertaken a project to construct a sewage collection system in the Rapid Valley Sanitary District;
3. The District encompasses an area outside the corporate limits of the City which is so situated that the sewage thereof becomes, or may become, a menace to the residents of such area and to the residents of the City;
4. The District is empowered under SDCL 34-17-27 to enter into a contract with the City to use the facilities of the City for the treatment and disposal of sewage of the District;
5. The City and District desire to enter into a contract to allow the District to use the sewage treatment and disposal facilities of the City, and to establish rights and obligations incident thereto.

In consideration of the mutual covenants, agreements, and conditions contained herein, City and District agree as follows:

SECTION ONE

DEFINITIONS

The following words, terms and phrases are hereby defined and shall be interpreted as such throughout this Agreement. Terms not herein defined shall have the meaning customarily assigned to them.

1. BOD (biochemical oxygen demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius expressed in milligrams per liter.
2. Commercial or institutional users shall mean all nonresidential users which introduce only sanitary sewage or primarily segregated domestic wastes into a building sewer.
3. Industrial cost recovery shall mean recovery from the industrial users of the Rapid City Wastewater Treatment System of the amount of federal grant money used for the purpose of constructing wastewater facilities allocable to the transportation and treatment of waste from such users.
4. Industrial users shall mean all nonfederal governmental users of the sewage works identified in Appendix A under the following divisions and which contribute waste other than primarily segregated domestic wastes or wastes from sanitary conveniences:

- Division 4. Agriculture, forestry, and fishing.
- Division 5. Mining.
- Division 6. Manufacturing.
- Division 7. Transportation, communication, electric, gas and sanitary services.
- Division 8. Services.

- 5. Industrial waste shall mean the water-carried wastes from industrial manufacturing or industrial processing is distinct from sanitary sewage. It shall include the trade wastes produced by, but not limited to, food processing and bottling plants, food manufacturing plants, slaughtering plants, tallow works, plating works, disposal services, industrial cleaning plants, fertilizer plants, car and truck washing operations, laundries, cleaning establishments, cooling plants, industrial plants, factories and chemical treatment installations.
- 6. Major industrial user shall mean an industrial user which contributes greater than fifty thousand (50,000) gallons per day or contributes greater than one percent of the sewage flow on any one day.
- 7. Minor industrial users shall mean an industrial user not classified as a major industrial user.
- 8. Suspended solids (SS) shall mean total suspended matter that either floats on the surface of, or is in suspension in water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.
- 9. Wastewater (also sewage) shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

SECTION TWO

USE OF TREATMENT PLANT

City hereby grants to District the right to discharge sewage into the outfall sewer line of the City, and agrees to transport such sewage from the point of entry to the wastewater treatment plant of the City, and to treat and dispose of such sewage, all subject to the conditions contained herein. The District may discharge its sewage into the City outfall line at four (4) connection points in such manner and under such conditions as prescribed by the City Engineer. The District shall be responsible to provide the four (4) connection points and no further connections to the City outfall line shall be made by the District without approval of the City Engineer.

SECTION THREE

PRETREATMENT PROVISIONS

- A. The District shall adopt and diligently enforce an ordinance which conforms to 40 CFR 403.8(f)(1)(i-vii) Pretreatment Requirement for minimum legal authorities, and which contain all other legal provisions mandated by this Service Agreement. Also, insofar as the District chooses to administer its own Pretreatment Program, the District shall formulate, fund and execute programmatic procedures which will enable compliance with the "Procedures" and "Funding" requirement contained in 40 CFR 403.8(f)(2) and (3) of the Federal Pretreatment Regulations.

- B. The District shall adopt and enforce in its ordinance the following provisions: (i) a provision requiring any industrial user responsible for a significant accidental discharge to notify immediately both the City and the District, (ii) a provision precluding, except where authorized by Categorical Standard, the use of dilution to attain conformance to Pretreatment Standards, and authorizing the District to develop mass limitations for any industrial user using improper dilution, (iii) a provision forbidding and penalizing the knowing transmittal of false information by an industrial user to the City or District, (iv) a provision granting the District explicit authority to mandate the installation of all necessary monitoring and pretreatment facilities by industrial users. The City and the District shall consult and cooperate in the drafting of any supplemental amendments to ordinance which are necessary to ensure the effective administration of the overall Pretreatment Program.
- C. The District shall adopt and enforce, in its ordinance, specific discharge limits at least as stringent as those limits enumerated and described in Sections 30-163 and 30-164 of the City ordinance.
- D. Once promulgated, Categorical Standards for a particular industrial category shall supersede all conflicting specific discharge limits as they apply to that industrial category. The City shall notify all affected industrial users of pertinent 40 CFR §403.12 reporting requirements.
- E. The City shall make the final determination, subject only to 40 CFR §403.6 Federal or State review, as to whether a particular industrial user is a Categorical Industry. The City may request that the District collect and forward to the City all information necessary to make this determination.
- F. Using the definition contained in Section 30-1 of the City ordinance, the City shall make the final determination as to whether a particular industrial user is a significant industrial user. The City may request that the District collect and forward to the City all information necessary to make this determination. The District shall control, through permit, contract or similar means, industrial waste discharges from each significant industrial users which discharges into its community sewer system.
- G. The District shall file with the City a certified copy of its industrial waste discharge ordinance and any amendments thereto, and each industrial waste permit or contract issued pursuant to the ordinance. The District shall deliver to the City, in a timely fashion, copies of all industrial monitoring reports, including 40 CFR §403.12 compliance reports. This records requirement shall apply both to self-monitoring conducted by industrial users in accordance with Federal, State or local requirements, and to any compliance monitoring conducted by the District.
- H. Any authorized officer or employee of the City may enter and inspect any part of the community sewer system of the District. The right of entry and inspection shall extend to public streets, easements, and property within which the system is located. Moreover, the City shall be allowed, as appropriate, to enter on private property to inspect industrial waste discharges. The District shall make all necessary legal and administrative arrangements for the inspections. The right of inspection shall include on-site inspection of pretreatment and sewer facilities, observation, measurement, sampling testing and access to all 40 CFR §403.12 compliance records located on the premises of the industrial user.
- I. The City and District may enter into a pretreatment agreement providing the City with the legal authority to carry out technical and administrative procedures necessary to implement a Pretreatment Program within the District. These procedures may include, among others, updating the industrial waste survey, providing technical services, such as process chemical analysis and engineering advice, relating to the

issuance and review of industrial waste discharge permits, inspecting and monitoring industrial waste discharges, waste discharge facilities and operation of permittees, and providing technical assistance for local enforcement efforts. Where pretreatment delegation occurs, the City shall bill the District for costs incurred by the City in conjunction with the administration of the Pretreatment Program on behalf of the District.

- J. The City shall review the District ordinance and amendments thereto for conformance to 40 CFR §403.8(f)(1)(i-vii) Pretreatment Requirements for minimum legal authorities, and for the inclusion of all other legal provisions mandated by the Service Agreement. The City shall periodically review the enforcement efforts of the District to ascertain whether Pretreatment Requirements are being diligently enforced at the local level. Insofar as the District administers its own Pretreatment Program, the City shall periodically review District programmatic procedures to ensure that the District is administering its Pretreatment Program in technical conformance to the "Procedures" and "Funding" requirements under 40 CFR §403.8(f)(2) and (3) of the Federal Pretreatment Regulations.

- K. Where a discharge to the City reasonably appears to present an imminent endangerment to the health or welfare of persons, or presents or may present an endangerment to the environment, or threatens to interfere with the operation of the City system, the City shall immediately initiate investigative procedures to identify the source of the discharge, and take any steps necessary to halt or prevent the discharge.

If necessary, the City shall seek injunctive relief against the District and any industrial user contributing significantly to the emergency condition. In the case of a discharge which does not reasonably appear to present an imminent endangerment to the health or welfare of persons, the City shall provide formal notice to the District and to any industrial user contributing significantly to the emergency condition, and an opportunity to respond to the emergency condition.

- L. If the District systematically fails or refuses to fulfill any pretreatment obligations, the City may formulate and issue a remedy decree containing a discussion of the nature of pretreatment violations, an enumeration of remedial actions to be taken by the District and a time schedule for attaining compliance with all Pretreatment Requirements. A reasonable remedy decree shall be specifically enforceable in a court of competent jurisdiction. Where the District fails to comply with the terms of the remedy decree, the City may upon thirty (30) days written notice refuse to accept any industrial waste discharges from the District.

- M. The District shall indemnify the City for all damages, fines, and costs incurred as a direct result of industrial waste discharge from the District. The District shall reimburse the City for fines or costs stemming from injury to City personnel, damages to City facilities, disruption of treatment processes or operations, degradation of sludge quality, NPDES permit violations, and other air, water and sludge quality violations.



STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES
& ENVIRONMENTAL CONTROL
DIVISION OF ENVIRONMENTAL CONTROL
WATER RESOURCES SECTION
EDWARD TATNALL BUILDING
P.O. BOX 1401
DOVER, DELAWARE 19901

TELEPHONE: (302) 736-4761

February 22, 1982

Mr. Alexander Slinsky
U.S. Environmental Protection Agency
Region III
6th and Walnut Streets
Philadelphia, PA 19106

Re: M-O-T Pretreatment Program

Dear Mr. Slinsky:

We are herewith forwarding, for your review and comments, the documents on the development of the M-O-T Pretreatment Program.

The list of the documents is as shown on the enclosed letter from Mr. Albert W. Madora to Mr. Robert J. Touhey dated January 14, 1982.

Please return the package of documents with your comments to us as soon as your schedule permits.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jay Brahmhatt".

Jay Brahmhatt
Environmental Engineer

JB/dp

Enclosure